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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.       | CONFIRMATION NO. |
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| 09/773,547   | 02/02/2001  | Te-Kai Liu           | YOR919990585US1           | 8048             |
| 48150  | 7590        | 01/09/2006           |                           |                  |
| MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC<br>8321 OLD COURTHOUSE ROAD<br>SUITE 200<br>VIENNA, VA 22182-3817 |             |                      | EXAMINER<br>CHOI, PETER H |                  |
|  |             |                      | ART UNIT<br>3623          | PAPER NUMBER     |

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Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 09/773,547             | LIU ET AL.          |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Peter Choi             | 3623                |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 October 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-6,8-11,13-33 and 35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-6,8-11, 13-33 and 35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. This Final Office action is response to applicant's response to Applicant's amendment filed October 17, 2005. Applicant's amendment amended claims 1,3, 10, 13, 15, 16, 18, 21, 22, 23, 24, 26, 27, 28, 30, 31, 32, 33, and 35. Applicant's amendment canceled claims 2 and 34. Claims 1, 3-6, 8-11, 13-33 and 35 are pending in the application.

### ***Response to Arguments***

2. Applicant argues that claim 4 does not contradict claim 1.

The Examiner respectfully disagrees. Dependent claim 4 states that the survey evaluates consumer satisfaction with the transaction, whereas the survey as cited in independent claim 1 comprises a political poll. It is unclear whether the surveys in claims 1 and 4 are two distinct surveys (one political poll, one regarding consumer satisfaction with a transaction), or if a single survey consists of political polls and consumer satisfaction with a transaction. In the latter case, the Examiner recommends the Applicant reword the language of claim 4 to emphasize the multi-purpose use of the survey, for example, "The system of claim 1, wherein said survey further comprises an evaluation of consumer satisfaction with the transaction"

Applicant argues that neither Tedesco et al. nor any of the other cited references has anything whatsoever to do with loyalty points for rewarding a frequent user.

The Examiner respectfully disagrees. Joao teaches the use of compensation, rewards, rebates and/or incentives for viewing, reviewing, and/or participating in and/or interacting with the survey(s), poll(s) and/or questionnaire(s) [Paragraph 31]. Further Joao teaches that the compensation, rewards, rebates, and/or incentives can take the form of direct price reductions, rebate checks, **frequent flier rewards**, financial rewards, digital money, coins, and/or tokens, coupons and/or electronic coupons for later purchases [Paragraph 37]. Frequent flier mileage rewards are a form of loyalty points awarded to customers for being a frequent user.

Applicant argues that Tedesco et al. does not teach or suggest the combination of a payment system with a survey system.

The Examiner respectfully disagrees. Tedesco et al. discloses a vending machine method and apparatus that allows users to conduct transactions using a credit card.

"The card reader 120 may be embodied as a conventional reader for reading data from a credit, debit or chip-based "smart" card or other stored value card, and it

may cooperate with conventional remote point-of-sale credit card processing equipment (not shown) to validate card-based purchases through a conventional card authorization network.” [Column 4, line 62 – Column 5, line 5].

3. Other Applicant arguments have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 112***

4. Applicant has canceled claim 34, thus the rejection of this claim under 35 USC § 112 is hereby withdrawn.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 4-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Dependent claim 4 states that the survey evaluates consumer satisfaction with the transaction, whereas the survey as cited in independent claim 1 comprises a political poll. While you can assess voter satisfaction with a politician, you would not then call the voter a consumer nor would it be satisfaction with the transaction. Therefore, it is unclear whether the surveys in claims 1 and 4 are two

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distinct surveys (one political poll, one regarding consumer satisfaction with a transaction), or if a single survey consists of political polls and consumer satisfaction with a transaction. In the latter case, the Examiner recommends the Applicant reword the language of claim 4 to emphasize the multi-purpose use of the survey, for example, "The system of claim 1, wherein said survey further comprises an evaluation of consumer satisfaction with the transaction".

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-6, 8-11, 13-14, 16-17, 19-23, and 27-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tedesco et al. (U.S Patent #6,161,059) in view of Joao (PGPub 2001/0056374).

As per claim 1, Tedesco et al. teaches a system for conducting a survey, comprising:

a presentation unit (**liquid crystal display unit or a light emitting diode display unit**) for presenting a plurality of choices at a point-of-transaction terminal (**vending machine**); [Column 5, lines 38-40]

an input unit (**input device**) for entering the preferred choices [Column 4, lines 44-47];

a recording unit (**data storage device**) for recording the entered choices [Column 5, line 51 – Column 6, line 7]; and

a reward unit for rewarding a user (**customer**) making the choices (**providing responses about their preferences or opinions in the form of a survey**). [Column 3, lines 65-67].

Tedesco et al. does not expressly teach the specific data of political polls as recited in the claim. However, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *MPEP* § 2106.

Nevertheless, Joao teaches the step of administering a political survey, poll and questionnaire [Paragraph 33]. Both Tedesco et al. and Joao are directed towards the analogous art of providing users with compensation for survey participation; thus, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Tedesco et al. to include the step of conducting political polls at a point-of-transaction terminal in order to appeal to a broader target audience, increasing the likely response rate and providing a more accurate polling result.

Joao also teaches the use of frequent flier rewards as a form of compensation for user participation in the surveys, polls and/or questionnaires [Paragraphs 31 and 37]. Frequent flier mileage rewards have long been established as a form of loyalty points awarded to customers for being a frequent user (in fact, Frequent Flier Programs have been around since May 1981, when American Airlines introduced AAdvantage), and thus meet the limitation of the claim. Both Tedesco et al. and Joao are directed towards the analogous art of providing users with compensation for survey participation; thus, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Tedesco et al. to include the step of reward frequent users with loyalty points in order to benefit all parties involved, because said rewards would encourage user participation, and the survey administers are provided with responses from an additional user, providing a larger sample size, lending more credibility to survey results.



As per claim 3, Tedesco et al. teaches the system of claim 1, wherein said reward further includes at least one of a monetary reward, a discount (**rebate**) on a present purchase, and a discount on a future (**subsequent**) purchase [Column 4, lines 17-20].

As per claim 4, Tedesco et al. teaches the system of claim 1, wherein said survey evaluates consumer satisfaction (**preferences of opinions**) with the transaction [Column 3, lines 64-67].

As per claim 5, Tedesco et al. teaches the system of claim 4, wherein the satisfaction is based upon at least one of the quality of a product (**alternative products**) and a quality of a service (**alternative locations**) [Column 7, lines 35-37, Claims 4-5]. A consumer's satisfaction level is considered non-functional material.

As per claim 6, Tedesco et al. teaches the system of claim 1, wherein said point-of-transaction comprises at least one of a restaurant (**snack or beverage machines**), a hotel, a retail location, an automated teller machine (**ATM**), and an entertainment location (**pay telephones or slot machines**) [Column 3, lines 45-50].

As per claim 8, Tedesco et al. teaches the system of claim 1, wherein said point-of-transaction terminal (**vending machine**) comprises a credit card reader (**card reader 120**) [Column 4, lines 66-67 and Column 5, lines 1-5].

As per claim 9, Tedesco et al teaches a vending machine, a point-of-transaction terminal that inherently comprises a point-of-sale terminal, as the payment processing system is housed within the machine.

As per claim 10, Tedesco et al. teaches a system for conducting a consumer evaluation, comprising:

a credit card reader (**conventional reader for reading data from a credit card**);  
[Column 4, lines 66-67];

a point-of-transaction terminal (**vending machine**) operatively coupled to said credit card reader [Column 5, lines 1-5] , a survey being interactively and electronically displayed for said consumer (**providing the customer with a question and possible answers**) at a time of a transaction [Column 7, lines 33-40 and Column 9, lines 44-47];  
and

a reward unit for rewarding a consumer (**customer**) making the choices (**providing responses about their preferences or opinions in the form of a survey**). [Column 3, lines 65-67].

Tedesco et al. does not expressly teach the specific data of political polls as recited in the claim. However, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP § 2106.

Nevertheless, Joao teaches the step of administering a political survey, poll and questionnaire [Paragraph 33]. Both Tedesco et al. and Joao are directed towards the analogous art of providing users with compensation for survey participation; thus, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Tedesco et al. to include the step of conducting political polls at a point-of-transaction terminal in order to appeal to a broader target audience, increasing the likely response rate and providing a more accurate polling result.

Joao also teaches the use of frequent flier rewards as a form of compensation for user participation in the surveys, polls and/or questionnaires [Paragraphs 31 and 37]. Frequent flier mileage rewards have long been established as a form of loyalty points awarded to customers for being a frequent user (in fact, Frequent Flier Programs have

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been around since May 1981, when American Airlines introduced AAdvantage), and thus meet the limitation of the claim. Both Tedesco et al. and Joao are directed towards the analogous art of providing users with compensation for survey participation; thus, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Tedesco et al. to include the step of reward frequent users with loyalty points in order to benefit all parties involved, because said rewards would encourage user participation, and the survey administrators are provided with responses from an additional user, providing a larger sample size, lending more credibility to survey results.

Although Tedesco et al. does not teach a payment gateway server coupled to the point-of-transaction terminal, means of processing credit card payments are old and well known in the art and are common in point-of-transaction terminals. Furthermore, Tedesco et al. teaches that "The card reader 120 may be embodied as a conventional reader for reading data from a credit, debit or chip-based "smart" card or other stored value card, and it may cooperate with conventional remote point-of-sale credit card processing equipment (not shown) to **validate card-based purchases through a conventional card authorization network.**" [Column 4, line 62 – Column 5, line 5]. It would have been obvious to one of ordinary skill in the art to modify the teachings of Tedesco et al. to couple the point-of-transaction terminal with a payment gateway server to facilitate the transfer of funds as needed to complete the transaction using the conventional card authorization network taught by Tedesco et al.

Although not expressly disclosed, Tedesco et al. contains a survey processing center for processing the survey answers, since rewards are not provided to the customer until an answer to the survey question is received.

Whether or not processing components are coupled together into a single component or embodied in separate components does not affect performance or functionality. The step of coupling the survey processing center and a payment gateway server is therefore considered to be non-functional material. Nonetheless, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Tedesco et al. to couple the payment gateway server to the survey processing center so that only the survey answers of participants who have completed a transaction are counted, preserving the validity of the results.

As per claim 11, Tedesco et al. teaches a system for conducting a consumer evaluation, comprising:

a credit card reader [Column 4, lines 66-67] including:

a text display screen (**LCD, LED**) for displaying the information and messages [Column 5, lines 38-40]; and

an input unit (**input device**). [Column 4, lines 44-47]

Tedesco et al. is silent regarding how credit card information is read using the credit card reader. However, it is inherent that card readers must swipe the magnetic stripe of the card to read credit card information.

As per claims 13 and 14, although not expressly disclosed, the vending machine in Tedesco et al. inherently communicates with the payment processing server of the proper financial institutions (banks, credit card companies) through a network, comprising a telephone network, an intranet, or the Internet.

As per claim 15, although not taught by Tedesco et al., the step of ordering a transfer of funds from a payer's bank, by a first transaction server to a payee's bank using a second transaction server is old and well known and is an inherent step in completing an exchange of money (electronic fund transfers, credit card payments, check payments, direct deposit payments, etc.).

As per claim 16, although not taught by Tedesco et al., Joao teaches the step of routing survey questions originating from a survey processing server over a network to be displayed on the credit card reader, and routes answers to survey questions received from the credit card reader over the network **(transmit data and/or information using TCP/IP, as well as any other Internet and/or World Wide Web protocols)** to the survey processing server [Paragraph 129]. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings

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of Tedesco et al. to include the step of transmitting data over the Internet to centrally store a repository of survey questions and corresponding answers, enabling further research to be conducted (marketing research, data mining, statistical analysis, forecasting, etc.).

As per claim 17, Tedesco et al. teaches the system of claim 10, wherein said credit card reader and said POT terminal are integrally formed in a same housing **(within the vending machine)**. [Column 4, lines 66-67 and Article 120 of Figure 1]

As per claim 18, Tedesco et al. teaches the step of rewarding customers (consumers), authorizing the reward payments to a user (consumer) after processing payment (via the credit card reader and payment processing server), accomplishing the same functionality of the claimed survey processing center. The survey processing center is thus a repository of survey questions, and serves the purpose of processing surveys (receiving and tabulating survey answers), and said limitations are taught by Tedesco et al.

As per claim 19, Tedesco et al. teaches the system of claim 10, wherein said system is usable with a retail **(vending machines)** establishment [Column 3, lines 50-55].

As per claim 20, Tedesco et al. teaches the system of claim 10, wherein said system is usable with an automatic teller machine (**ATM**). [Column 3, lines 44-48]

As per claims 21 and 22, Tedesco et al. teaches the system of claim 10, wherein said system is usable with a commodity providing (**beverages, snacks, video tapes and children's toys**) concern. [Column 3, lines 21-22] Tedesco et al. is silent regarding the location or placement of the vending machines, but it is inherent that vending machines can be placed in a variety of locations and business establishments, such as office buildings, hotel lobbies, fuel dispensing stations, and retail stores. The location where the invention is implemented is considered non-functional material.

Furthermore, although Tedesco et al. does not expressly teach the step of compatibility with commodity providing enterprises such as a fuel dispensing station, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the commodity providing enterprise and location. Further, the structural elements remain the same regardless of the commodity providing enterprise and location. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *MPEP* § 2106.



As per claim 23, Tedesco et al. teaches a method of conducting a survey, comprising:

while performing a transaction at a point-of-transaction terminal, presenting a plurality of choices to a customer [Column 3, lines 50-56];

entering the preferred choices of the customer **(using an input device)** [Column 4, lines 44-61];

recording **(stores information in the customer response database)** the entered choices [Column 6, lines 1-3]; and

rewarding a frequent customer **(customer)** making choices **(providing responses about their preferences or opinions in the form of a survey)**. [Column 3, lines 65-67].

Tedesco et al. does not expressly teach the specific data of political polls as recited in the claim. However, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *MPEP* § 2106.

Nevertheless, Joao teaches the step of administering a political survey, poll and questionnaire [Paragraph 33]. Both Tedesco et al. and Joao are directed towards the analogous art of providing users with compensation for survey participation; thus, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Tedesco et al. to include the step of conducting political polls at a point-of-transaction terminal in order to appeal to a broader target audience, increasing the likely response rate and providing a more accurate polling result.

Joao also teaches the use of frequent flier rewards as a form of compensation for user participation in the surveys, polls and/or questionnaires [Paragraphs 31 and 37]. Frequent flier mileage rewards have long been established as a form of loyalty points awarded to customers for being a frequent user (in fact, Frequent Flier Programs have been around since May 1981, when American Airlines introduced AAdvantage), and thus meet the limitation of the claim. Both Tedesco et al. and Joao are directed towards the analogous art of providing users with compensation for survey participation; thus, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Tedesco et al. to include the step of reward frequent users with loyalty points in order to benefit all parties involved, because said rewards would encourage user participation, and the survey administrators are provided with responses from an additional user, providing a larger sample size, lending more credibility to survey results.

Tedesco et al. does not expressly teach the specific data of political polls as recited in the claim. However, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP § 2106.

Nevertheless, Joao teaches the step of administering a political survey, poll and questionnaire [Paragraph 33]. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Tedesco et al. to include the step of conducting political polls at a point-of-transaction terminal in order to appeal to a broader target audience, increasing the likely response rate and providing a more accurate polling result.

As per claim 27, Tedesco et al. teaches a commercial transaction and surveying system, comprising:

a presentation (**display unit 150**) unit for presenting a plurality of choices [Column 3, lines 50-56, Figure 1];

an input unit for entering the preferred choices **(using an input device)** [Column 4, lines 44-61];

a recording unit **(data storage device)** for recording the entered choices **(stores information in the customer response database)**, said plurality of choices being presented at a point-of-transaction [Column 6, lines 1-3]; and

a reward unit for rewarding a user **(customer)** making the choices **(providing responses about their preferences or opinions in the form of a survey)**. [Column 3, lines 65-67].

Tedesco et al. does not expressly teach the specific data of political polls as recited in the claim. However, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *MPEP* § 2106.

Nevertheless, Joao teaches the step of administering a political survey, poll and questionnaire [Paragraph 33]. Both Tedesco et al. and Joao are directed towards the analogous art of providing users with compensation for survey participation; thus, it

would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Tedesco et al. to include the step of conducting political polls at a point-of-transaction terminal in order to appeal to a broader target audience, increasing the likely response rate and providing a more accurate polling result.

Joao also teaches the use of frequent flier rewards as a form of compensation for user participation in the surveys, polls and/or questionnaires [Paragraphs 31 and 37]. Frequent flier mileage rewards have long been established as a form of loyalty points awarded to customers for being a frequent user (in fact, Frequent Flier Programs have been around since May 1981, when American Airlines introduced AAdvantage), and thus meet the limitation of the claim. Both Tedesco et al. and Joao are directed towards the analogous art of providing users with compensation for survey participation; thus, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Tedesco et al. to include the step of reward frequent users with loyalty points in order to benefit all parties involved, because said rewards would encourage user participation, and the survey administrators are provided with responses from an additional user, providing a larger sample size, lending more credibility to survey results.

As per claim 28, Tedesco et al. teaches an automated teller machine, comprising:

a banking transaction system (**mechanisms for receiving payment and dispensing change, including card reader, coin acceptor, bill validator, and a change dispenser**) [Column 4, lines 61-65];

a surveying system electronically linked (**housed within the machine**) to said banking transaction system such that at a point-of-transaction a survey is electronically presented to a customer (**using display unit 150**) [Figure 1]; and

a reward unit for rewarding a user (**customer**) making the choices (**providing responses about their preferences or opinions in the form of a survey**). [Column 3, lines 65-67].

Tedesco et al. does not expressly teach the specific data of political polls as recited in the claim. However, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *MPEP* § 2106.

Nevertheless, Joao teaches the step of administering a political survey, poll and questionnaire [Paragraph 33]. Both Tedesco et al. and Joao are directed towards the

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analogous art of providing users with compensation for survey participation; thus, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Tedesco et al. to include the step of conducting political polls at a point-of-transaction terminal in order to appeal to a broader target audience, increasing the likely response rate and providing a more accurate polling result.

Joao also teaches the use of frequent flier rewards as a form of compensation for user participation in the surveys, polls and/or questionnaires [Paragraphs 31 and 37]. Frequent flier mileage rewards have long been established as a form of loyalty points awarded to customers for being a frequent user (in fact, Frequent Flier Programs have been around since May 1981, when American Airlines introduced AAdvantage), and thus meet the limitation of the claim. Both Tedesco et al. and Joao are directed towards the analogous art of providing users with compensation for survey participation; thus, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Tedesco et al. to include the step of reward frequent users with loyalty points in order to benefit all parties involved, because said rewards would encourage user participation, and the survey administrators are provided with responses from an additional user, providing a larger sample size, lending more credibility to survey results.

As per claim 29, Tedesco et al. teaches the ATM of claim 28, wherein said surveying system comprises:

a presentation unit (**display unit 150**) for presenting a plurality of choices  
[Column 3, lines 50-56];

an input unit for entering the preferred choices (**using an input device**) [Column  
4, lines 44-61]; and

a recording unit (**data storage device**) for recording the entered choices  
[Column 6, lines 1-3].

As per claim 30, Tedesco et al. teaches an automated teller machine,  
comprising:

a point-of-transaction terminal (**vending machine**); and  
a card reader (**card reader 120**) electronically coupled to said point-of-  
transaction terminal, said card reader comprising a display screen (**display unit 150**), a  
customer input device (**input device 110**) and a mechanism for reading a card [Figure  
1], and

a reward unit for rewarding a user (**customer**) making the choices (**providing  
responses about their preferences or opinions in the form of a survey**). [Column  
3, lines 65-67],

wherein substantially concurrently with a transaction, a survey is electronically  
received by said point-of-transaction terminal and displayed on said display screen for  
allowing a customer to participate in a survey [Lines 2-4 of Abstract].



Tedesco et al. does not expressly teach the specific data of political polls as recited in the claim. However, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *MPEP* § 2106.

Nevertheless, Joao teaches the step of administering a political survey, poll and questionnaire [Paragraph 33]. Both Tedesco et al. and Joao are directed towards the analogous art of providing users with compensation for survey participation; thus, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Tedesco et al. to include the step of conducting political polls at a point-of-transaction terminal in order to appeal to a broader target audience, increasing the likely response rate and providing a more accurate polling result.

Joao also teaches the use of frequent flier rewards as a form of compensation for user participation in the surveys, polls and/or questionnaires [Paragraphs 31 and 37]. Frequent flier mileage rewards have long been established as a form of loyalty points awarded to customers for being a frequent user (in fact, Frequent Flier Programs have

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been around since May 1981, when American Airlines introduced AAdvantage), and thus meet the limitation of the claim. Both Tedesco et al. and Joao are directed towards the analogous art of providing users with compensation for survey participation; thus, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Tedesco et al. to include the step of reward frequent users with loyalty points in order to benefit all parties involved, because said rewards would encourage user participation, and the survey administrators are provided with responses from an additional user, providing a larger sample size, lending more credibility to survey results.

As per claim 31, Tedesco et al. teaches a point-of-transaction device, comprising:

a point-of-transaction terminal (**vending machine**);

a card reader (**card reader 120**) electronically coupled to said point-of-transaction terminal, said card reader comprising a display screen (**display unit 150**), a customer input device (**input device 110**) and a mechanism for reading a credit card [Figure 1]; and

a reward unit for rewarding a user (**customer**) making the choices (**providinig responses about their preferences or opinions in the form of a survey**) [Column 3, lines 65-67],

wherein substantially concurrently with a transaction, a survey is electronically received by said point-of-transaction terminal and displayed on said display screen for allowing a customer to participate in a survey [Lines 2-4 of Abstract].

Tedesco et al. does not expressly teach the specific data of political polls as recited in the claim. However, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *MPEP* § 2106.

Nevertheless, Joao teaches the step of administering a political survey, poll and questionnaire [Paragraph 33]. Both Tedesco et al. and Joao are directed towards the analogous art of providing users with compensation for survey participation; thus, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Tedesco et al. to include the step of conducting political polls at a point-of-transaction terminal in order to appeal to a broader target audience, increasing the likely response rate and providing a more accurate polling result.

Joao also teaches the use of frequent flier rewards as a form of compensation for user participation in the surveys, polls and/or questionnaires [Paragraphs 31 and 37]. Frequent flier mileage rewards have long been established as a form of loyalty points awarded to customers for being a frequent user (in fact, Frequent Flier Programs have been around since May 1981, when American Airlines introduced AAdvantage), and thus meet the limitation of the claim. Both Tedesco et al. and Joao are directed towards the analogous art of providing users with compensation for survey participation; thus, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Tedesco et al. to include the step of reward frequent users with loyalty points in order to benefit all parties involved, because said rewards would encourage user participation, and the survey administers are provided with responses from an additional user, providing a larger sample size, lending more credibility to survey results.

As per claim 32, Tedesco et al. teaches a signal-bearing **(computer readable)** medium tangibly embodying **(having computer readable code means embodied)** a program of machine-readable instructions **(computer readable program code)** executable by a digital processing apparatus to perform a method of conducting a survey, comprising:

while performing a transaction at a point-of-transaction terminal, presenting a plurality of choices **(at least one question)** to a customer;

entering the preferred choices **(receive an answer to the question)** of the customer; and

recording the entered choices [Claims 31, 56, and 84].

Tedesco et al. does not expressly teach the specific data of political polls as recited in the claim. However, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *MPEP* § 2106.

Nevertheless, Joao teaches the step of administering a political survey, poll and questionnaire [Paragraph 33]. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Tedesco et al. to include the step of conducting political polls at a point-of-transaction terminal in order to appeal to a broader target audience, increasing the likely response rate and providing a more accurate polling result.

As per claim 33, Tedesco et al. teaches a system for conducting a survey, comprising:

a presentation unit (**display unit 150**) for presenting a plurality of choices at a point-of-transaction terminal (**vending machine, ATM**) [Column 3, lines 50-56];

an input unit for entering the preferred choices (**using an input device**) [Column 4, lines 44-61];

a recording unit (**data storage device**) for recording the entered choices [Column 6, lines 1-3]; and

a reward unit for rewarding a user (customer) making the choices (providing responses about their preferences or opinions in the form of a survey). [Column 3, lines 65-67].

Tedesco et al. does not expressly teach the specific data of political polls as recited in the claim. However, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *MPEP* § 2106.

Nevertheless, Joao teaches the step of administering a political survey, poll and questionnaire [Paragraph 33]. Both Tedesco et al. and Joao are directed towards the analogous art of providing users with compensation for survey participation; thus, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Tedesco et al. to include the step of conducting political polls at a point-of-transaction terminal in order to appeal to a broader target audience, increasing the likely response rate and providing a more accurate polling result.

Joao also teaches the use of frequent flier rewards as a form of compensation for user participation in the surveys, polls and/or questionnaires [Paragraphs 31 and 37]. Frequent flier mileage rewards have long been established as a form of loyalty points awarded to customers for being a frequent user (in fact, Frequent Flier Programs have been around since May 1981, when American Airlines introduced AAdvantage), and thus meet the limitation of the claim. Both Tedesco et al. and Joao are directed towards the analogous art of providing users with compensation for survey participation; thus, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Tedesco et al. to include the step of reward frequent users with loyalty points in order to benefit all parties involved, because said rewards would encourage user participation, and the survey administrators are provided with responses from an additional user, providing a larger sample size, lending more credibility to survey results.

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As per claim 35, Tedesco et al. teaches a system for conducting a survey and a commercial transaction, comprising:

a presentation unit (**display unit 150**) for presenting a plurality of choice at a point-of-transaction terminal (**vending machine, ATM**) [Column 3, lines 50-56];

an input unit for entering the preferred choices (**using an input device**) [Column 4, lines 44-61];

a recording unit (**data storage device**) for recording the entered choices [Column 6, lines 1-3];

a reward unit for rewarding a user (**customer**) making the choices (**providing responses about their preferences or opinions in the form of a survey**). [Column 3, lines 65-67],

wherein said point-of-transaction terminal comprises an automated teller machine (ATM), said ATM comprising:

a banking transaction system (**mechanisms for receiving payment and dispensing change, including card reader, coin acceptor, bill validator, and a change dispenser**) [Column 4, lines 61-65]; and

a surveying system electronically linked (**housed within the machine**) to said banking transaction system such that at a point-of-transaction a survey is electronically presented to a customer (**using display unit 150**).



Tedesco et al. teaches the allocation of a reward [Claim 1] which may come in the form of loyalty points (among other embodiments) that meets the limitation of the claim.

Tedesco et al. does not expressly teach the specific data of political polls as recited in the claim. However, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *MPEP* § 2106.

Nevertheless, Joao teaches the step of administering a political survey, poll and questionnaire [Paragraph 33]. Both Tedesco et al. and Joao are directed towards the analogous art of providing users with compensation for survey participation; thus, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Tedesco et al. to include the step of conducting political polls at a point-of-transaction terminal in order to appeal to a broader target audience, increasing the likely response rate and providing a more accurate polling result.

Joao also teaches the use of frequent flier rewards as a form of compensation for user participation in the surveys, polls and/or questionnaires [Paragraphs 31 and 37]. Frequent flier mileage rewards have long been established as a form of loyalty points awarded to customers for being a frequent user (in fact, Frequent Flier Programs have been around since May 1981, when American Airlines introduced AAdvantage), and thus meet the limitation of the claim. Both Tedesco et al. and Joao are directed towards the analogous art of providing users with compensation for survey participation; thus, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Tedesco et al. to include the step of reward frequent users with loyalty points in order to benefit all parties involved, because said rewards would encourage user participation, and the survey administrators are provided with responses from an additional user, providing a larger sample size, lending more credibility to survey results.

9. Claims 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tedesco et al. (U.S Patent #6,161,059) in view of Marcous et al. (U.S Patent #5,650,604) and Joao (PgPub US 2001/0056374).

As per claims 24 and 26, although not taught by Tedesco et al., Marcous et al teaches a credit card transaction method, comprising:

at a point-of-transaction terminal (**ATM**), reading a credit card of a customer by a card reader to read the card identification information; [ Column 8, lines 23-30];

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requesting the customer to confirm an amount of the transaction (**initiating terminal 110 sends a request for authorization to pseudo-terminal 140; pseudo-terminal 140 preferably has the appropriate linkages to the debit card networks and the credit card authorization point to authenticate the card and account information belonging to the sender desiring to transfer money; among the information provided to the authorization agent is the request for authorization for the principal amount desired by the sender to be transferred**) [Column 5, lines 54-67];

sending a transaction request to a payment gateway (**switch of a pseudo terminal**), to verify the transaction, order a transfer of funds from the customer's bank to a bank of the payee (**authorization unit 150 in turn forwards the request to an authorization agent**), and obtain an authorization or confirmation number (**once pseudo-terminal 140 receives the approval message, it generates a PIN which is sent to initiating terminal 110 to be provided to the sender of the funds; after the authorization request is approved, pseudo-terminal 140 preferably requests a unique DES-encrypted PIN from encryption module 155**); [Column 5, lines 56-58, Column 6, lines 23-26, 31-35]

sending, by the payment gateway, an authorization number (**approval message and PIN**) to the POT terminal; [Column 6, lines 23-26]

Tedesco et al. is directed towards using an ATM (or other point-of-transaction terminal) to simultaneously conduct a survey and process credit card transactions.

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Marcous et al. is directed towards automating electronic transfer of funds, preferably using an ATM. Thus, both Tedesco et al. and Marcous et al. are directed towards advancements to ATM machines to make them more versatile. The teachings of Marcous et al. are representative of the well-established means of processing credit card transactions that would be considered to be part of a conventional card authorization network, as specified by Tedesco et al. Furthermore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Tedesco et al. to include the credit card transaction means taught by Marcous et al. because the resulting combination would provide the functionality of automating the processing of credit card transactions by the ATM machines through conventional card authorization networks, as taught by Tedesco et al.

Although not taught by Marcous et al., Joao teaches the step of electronically obtaining a survey question **(transmitting data and/or information using TCP/IP, as well as any other Internet and/or World Wide Web protocols)** [Paragraph 129]. Joao also teaches the step of having the user answer the survey question by conducting a poll [Claim 5]. After the answer has been entered, a reward is given to the customer.

The combined teachings of Tedesco et al. and Marcous et al. are directed towards using an ATM machine to process credit card transactions while simultaneously conducting user surveys. Joao is directed towards the related art of conducting a survey electronically using a computer. Therefore, it would have been obvious to one of

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ordinary skill in the art at the time of invention to modify the combined teachings of Marcous et al. and Tedesco et al. to include the survey question (and administration) as taught by Joao to obtain immediate feedback regarding the information viewed by the customer.

It also would have been obvious to one of ordinary skill in the art to modify the teachings of Tedesco et al., Marcous et al., and Joao to include the step of sending the answer to a survey processing center, where distribution of a reward would be authorized since it would allow registration of the customer in a central data repository as having participated in the survey, and ensuring that the customer is authorized (qualifies, has not exceeded any limitations as to how many times participating) to receive specialized offers (addressed to the customer's name, based on their past transaction history, etc.).

As per claim 25, although not taught by Marcous et al. or Tedesco et al., Joao teaches the method of claim 24, wherein said authorizing by the survey processing server comprises instructing the payment gateway server to order a transfer of funds from a transaction server, an award of frequent flyer miles (**a frequent flier reward**), a discount on a future purchase (**a coupon**), and a discount on a concurrent purchase (**a direct price reduction**) [Claim 9].

The combined teachings of Tedesco et al. and Marcous et al. are directed towards using an ATM machine to process credit card transactions while simultaneously conducting user surveys. Joao is directed towards the related art of conducting a survey electronically using a computer. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the combined teachings of Marcous et al. and Tedesco et al. to include incentives to customers completing the survey because the resulting combination would increase the user participation rate, which provides a larger sample size and (potentially) more accurate results.

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Choi whose telephone number is (571) 272 6971. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PC

January 3, 2006

Peter Choi  
Examiner  
Art Unit 3623

  
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